

# STATE BOARD REPORT

PUBLISHED BY THE MISSOURI BOARD OF EMBALMERS AND FUNERAL DIRECTORS

JULY 2008

## **Board Members**

James Reinhard, *Chairman*  
Martin Vernon, *Vice Chairman*  
Gary Fraker, *Secretary*  
John McCulloch, *Member*  
Joy Gerstein, *Public Member*

## **Federal Trade Commission Approved Final Consent Order in Matter of Missouri State Board of Embalmers and Funeral Directors**

The Missouri State Board of Embalmers and Funeral Directors (the "Board") announces agreement with the Federal Trade Commission regarding the FTC's allegations of restrictions and prohibitions on the sale of funeral merchandise or caskets. Persons may offer for retail sale caskets and other funeral merchandise to consumers in Missouri without obtaining a license from the Board. Full details of the settlement are posted on the Board's website at <http://pr.mo.gov/embalmers.asp> (Order enclosed).

The full text of § 333.251 RSMo. is enclosed.

The Rules and Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri.

## **June 25, 2008 National Prearranged Services, Inc. (NPS) Revocation**

A Settlement Agreement between the State Board of Embalmers and Funeral Directors and National Prearranged Services, Inc., (NPS) was effective on June 25, 2008. This order revoked the National Prearranged Services, Inc. seller registration in the State of Missouri. See website for additional information at: <http://pr.mo.gov/embalmers.asp>.

If you have further inquiries about National Prearranged Services Inc. (NPS), please use the contact information as listed below:

Donna J. Garrett  
Special Deputy Receiver  
Memorial Service Life Insurance Co.  
Lincoln Memorial Life Insurance Co.  
National Prearranged Services, Inc.  
Telephone: 512/330-9720  
Primary Fax Number: 314/726-5760  
Secondary Fax Number: 314/726-3038



**Federal Trade Commission**  
**Protecting America's Consumers**

For Your Information: June 24, 2008

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**FTC Approves Final Consent Order in Matter of Missouri State Board of Embalmers and Funeral Directors**

**Commission approval of final consent order** - Following a public comment period, the FTC has approved the issuance of a final consent order in the matter concerning the Missouri Board of Embalmers and Funeral Directors, as well as a letter responding to the commenter of record. The Commission vote approving the final order was 4-0. (FTC File No. 061-0026; the staff contact is Joel Christie, Bureau of Competition, 202-326-3297; see press release dated March 10, 2008.)

Copies of the documents mentioned in this release are available from the FTC's Web site at <http://www.ftc.gov> and from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Call toll-free: 1-877-FTC-HELP.

**MEDIA CONTACT:**

*Office of Public Affairs*  
202-326-2180

(FYI 32.2008.wpd)

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**Related Items:**

***In the Matter of Missouri Board of Embalmers and Funeral Directors***  
FTC File No. 061-0026

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Last Modified: Tuesday, 24-Jun-2008 10:57:00 EDT

UNITED STATES OF AMERICA

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BEFORE

# **FEDERAL TRADE COMMISSION**

DOCKET NO.

**C-4223**

IN THE MATTER OF:

**MISSOURI BOARD OF EMBALMERS AND  
FUNERAL DIRECTORS**

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## **COMPLAINT and ORDER**

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**

**William E. Kovacic, Chairman  
Pamela Jones Harbour  
Jon Leibowitz  
J. Thomas Rosch**

**In the Matter of**

**MISSOURI BOARD OF EMBALMERS AND  
FUNERAL DIRECTORS**

**Docket No. C-4223**

**COMPLAINT**

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Missouri Board of Embalmers and Funeral Directors has violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

**NATURE OF THE CASE**

This case involves Respondent Missouri Board of Embalmers and Funeral Directors (the "Board"), which is the sole licensing authority for the practices of embalming and funeral directing in Missouri. The Board is composed of six members, five of whom must be licensed embalmers or funeral directors. At the time it adopted the regulation at issue in this matter, the Board included five licensed funeral directors. Funeral directors compete in the sale of funeral caskets at-need to consumers in Missouri. Respondent is authorized to promulgate, adopt and enforce rules that it deems necessary for the public good and consistent with the laws of the State of Missouri. The Missouri statute that created and empowered Respondent to regulate the professions of embalming and funeral directing includes a provision stating that its licensing qualifications and conditions (Mo. Rev. Stat. Chapter 333 (2005)) shall not apply "to any person engaged simply in the furnishing of burial receptacles for the dead." Mo. Rev. Stat. § 333.251 (2005). The Board promulgated a regulation that defined the practice of funeral directing to include selling funeral merchandise on an at-need basis to consumers in the State of Missouri. This regulation deterred competitive entry into the retail sale of funeral caskets.

## **RESPONDENT**

1. The Board is an agency of the State of Missouri, established and existing pursuant to Mo. Rev. Stat. § 333.151, for the purpose of administering and enforcing Chapter 333 and portions of Chapter 436, Mo. Rev. Stat., and the regulations promulgated thereunder. It has authority to license and regulate those persons in the businesses of embalming and funeral directing in Missouri.
2. The Board's principal office and place of business is located at 3605 Missouri Boulevard, Jefferson City, Missouri, 65102-0423.
3. The Board is comprised of six members; one public member and five members that hold a license in either funeral directing or embalming, or both. Each member is appointed by the governor with the advice and consent of the state senate.
4. Except to the extent that competition has been restrained as alleged below, and depending on their geographic location, licensed funeral directors in Missouri compete with each other and with funeral director members of the Board in, among other activities, the sale of funeral caskets at-need to the public.
5. The Board is the sole licensing authority for those who engage in the business of embalming and funeral directing in Missouri. It is unlawful for an individual to practice or offer to practice embalming or funeral directing in Missouri unless he or she holds a current license to practice.
6. Under Mo. Rev. Stat. § 333.241 (2005), the Board is empowered to seek a court order to enjoin any person from engaging or offering to engage in any act that would require a license from the Board.
7. The unlicensed practice of embalming or funeral directing in Missouri may be prosecuted as a class A misdemeanor under Mo. Rev. Stat. § 333.261 (2005).

## **JURISDICTION**

8. The Board is a state agency and is a "person" within the meaning of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.
9. The acts and practices of the Board, including the acts and practices alleged herein, have been or are affecting "commerce" within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44. In particular, funeral directors in Missouri purchase and receive funeral caskets and other funeral merchandise that are shipped across state lines by manufacturers and suppliers in other locations, transfer substantial sums of money that cross state lines in payment for that merchandise, perform funerals for residents of other states, and receive substantial sums of money that cross state lines in payment for funeral services and merchandise including funeral caskets. Furthermore, the regulation at issue deterred competitors

in other states from selling funeral caskets to Missouri consumers at need, and affected interstate commerce in funeral merchandise in neighboring states.

10. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

### **THE CHALLENGED CONDUCT**

11. The “practice of funeral directing” is defined in Mo. Rev. Stat. § 333.011(7) (2005) as “[E]ngaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control or supervision or management of the operations of a funeral establishment.”

12. Mo. Rev. Stat. § 333.251 (2005) states that: “Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead, but shall only apply to persons engaged in the business of embalming or funeral directing.”

13. Beginning on or about June 30, 1998, and continuing through approximately July 29, 2004, Regulation 4 CSR 120-2.060(18) stated that: “No person other than a duly licensed and registered funeral director may make the following at-need arrangements with the person having the right to control the incidents of burial: . . . (C) For the sale or rental to the public of funeral merchandise, services or paraphernalia from a funeral establishment.”

14. Prior to July 30, 2004, Regulation 4 CSR 120-2.060 (18) prohibited the sale of at-need funeral merchandise “from a funeral establishment” by anyone other than a licensed funeral director.

15. Beginning on or about July 30, 2004, and continuing through approximately September 29, 2006, 4 CSR 120-2.060(18) stated that: “No person other than a Missouri licensed funeral director shall be allowed to make the following at-need arrangements with the person having the right to control the incidents of disposition: . . . (C) Sale or rental to the public of funeral merchandise, services or paraphernalia.”

16. During the process leading up to the amendment of 4 CSR 120-2.060 that took effect in July 2004, the Board sought to amend other portions of the regulation but not 4 CSR 120-2.060(18)(C).

17. After the period for public comments for amending 4 CSR 120-2.060 was completed, the Board amended subsection 4 CSR 120-2.060(18)(C) by deleting the phrase “from a funeral establishment.”

18. Regulation 4 CSR 120-2.060(18)(C) as amended was published in the Missouri Register on June 1, 2004. This amended regulation, which was in effect beginning on or about July 30, 2004, and continuing through approximately September 29, 2006, is hereinafter referred to as the "Regulation at Issue."

19. Funeral directors in Missouri sell funeral caskets and provide funeral services to consumers.

20. Non-licensed persons who market and sell funeral caskets to consumers in Missouri compete with funeral directors for those sales.

21. Adoption and publication of the Regulation at Issue had the effect of restraining competition and injuring consumers in the following ways, among others:

- A. discouraging non-licensed persons from selling funeral caskets to the public at-need in Missouri;
- B. depriving consumers of the benefits of price competition that could have been offered by retail sellers of funeral caskets who were not licensed funeral directors; and
- C. reducing consumer choices in Missouri concerning the purchase of funeral caskets.

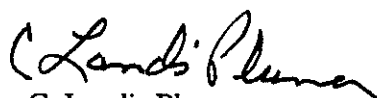
22. The Board filed an amended order of rulemaking on February 16, 2006 to initiate the process for rescinding the Regulation at Issue. After receiving public comment on a proposed amendment, the Board voted unanimously to rescind the Regulation at Issue on May 10, 2006. The amended regulation, published at 20 CSR 2120-2.060(18)(C), became effective on September 30, 2006.

## VIOLATION

23. The combination, conspiracy, acts and practices described above constitute anticompetitive and unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. Such combination, conspiracy, acts, and practices or the effects thereof, continued for approximately two years and may recur in the absence of the relief herein requested.

**WHEREFORE, THE PREMISES CONSIDERED,** the Federal Trade Commission on this nineteenth day of June, 2008, issues its Complaint against Respondent Missouri Board of Embalmers and Funeral Directors.

By the Commission.

  
C. Landis Plummer  
Acting Secretary

SEAL



**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**

**William E. Kovacic, Chairman  
Pamela Jones Harbour  
Jon Leibowitz  
J. Thomas Rosch**

**In the Matter of**

**MISSOURI BOARD OF EMBALMERS AND  
FUNERAL DIRECTORS**

**Docket No. C-4223**

**DECISION AND ORDER**

The Federal Trade Commission ("Commission") having initiated an investigation of certain acts and practices of the Missouri Board of Embalmers and Funeral Directors (the "Board"), hereinafter sometimes referred to as "Respondent," and Respondent having been furnished thereafter with a copy of the draft Complaint that the Bureau of Competition presented to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission have voluntarily executed an Agreement Containing Consent Order ("Consent Agreement"), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft Complaint, a statement that the signing of the Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in the aforementioned Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment filed by an interested person, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34 (2004), the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order ("Order"):

1. Respondent, the Missouri Board of Embalmers and Funeral Directors, is an industry regulatory board established by the State of Missouri with its principle office and place of business located at 3605 Missouri Boulevard, Jefferson City, Missouri 65102-0423.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

## **ORDER**

### **I.**

**IT IS ORDERED** that for the purposes of this Order, the following definitions shall apply:

- A. "Respondent" or "Board" means the Missouri Board of Embalmers and Funeral Directors, its officers, members, employees, consultants, agents, successors and assigns.
- B. "Licensee" means any person licensed to practice as an embalmer and/or funeral director in the State of Missouri.
- C. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.

### **II.**

**IT IS FURTHER ORDERED** that Respondent, in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, shall forthwith cease and desist from prohibiting, restricting, impeding or discouraging any person from engaging in the sale or rental to the public of funeral merchandise or burial receptacles for the dead, directly or indirectly, or through any rule, regulation, policy, or other conduct authorized by MO. REV. STAT. § 333.251 (2005).

### III.

**IT IS FURTHER ORDERED** that Respondent shall:

1. Publish in the Newsletter of the Board of Embalmers and Funeral Directors the full text of MO. REV. STAT. § 333.251 (2005), this Order, and an accompanying statement that: "The Rules and Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri," with such prominence as is given to regularly featured articles, and distribute such Newsletter to all Licensees within one hundred and twenty (120) days after the date this Order becomes final. Respondent shall similarly publish the full text of MO. REV. STAT. § 333.251 (2005) and an accompanying statement that: "The Rules and Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri" in subsequent issues of such Newsletter, which shall be distributed to all Licensees at least once each calendar year, for the years 2007, 2008 and 2009;
2. Display an advisory on its public website (<http://pr.mo.gov/embalmers.asp>) that: "The Federal Trade Commission and the Board Have Agreed to Settle FTC Allegations Regarding Restrictions and Prohibitions on the Sale of Funeral Merchandise or Caskets." Such advisory shall link to a new web page on the Board's website that contains the full text of MO. REV. STAT. § 333.251 (2005), a statement that: "The Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri," a link to MO. CODE REGS. ANN. tit. 20, § 2120-2.060 (2006), and a link to this Order. Respondent shall modify its website as described above no later than ten (10) business days after the date the Order becomes final, and shall display such modifications for no less than ninety (90) days from the date this Order becomes final. The advisory and this Order shall remain publicly accessible through common search terms and archives on the website for five (5) years from the date this Order becomes final, except in the event that the Missouri Office of Administration changes the structure or functionality of the Board's public website, in which case the Board shall notify the Commission and propose alternative means of access to the advisory, the information on the new web page and this Order;
3. Publish notice of this Order in three consecutive issues of *Missouri Funeral Director's Association Magazine*, beginning with the next available placement opportunity for the Board to include its notice in the magazine following publication of this Order on the Board's website. For purposes of this provision, such notice will be deemed satisfactory if it includes the following language: "The Missouri Board of Embalmers and Funeral Directors (the "Board") announces agreement with the Federal Trade Commission

regarding the FTC's allegations of restrictions and prohibitions on the sale of funeral merchandise or caskets. Persons may offer for retail sale caskets and other funeral merchandise to customers in Missouri without obtaining a license from the Board. Full details of the settlement are posted on the Board's website at [www.pr.mo.gov.embalmers.asp](http://www.pr.mo.gov.embalmers.asp)." The minimum size of such notice shall be one-half of one page in *Missouri Funeral Director's Association Magazine*;

4. Publish the statement: "The Missouri Board of Embalmers and Funeral Directors (the "Board") has settled antitrust allegations by the FTC regarding restrictions and prohibitions on the sale of funeral merchandise or caskets. Persons may offer for retail sale caskets and other funeral merchandise to customers in Missouri without obtaining a license from the Board. Full details of the settlement are posted on the Board's website at [www.pr.mo.gov.embalmers.asp](http://www.pr.mo.gov.embalmers.asp)." on Page 1 in the next version of the Missouri State Board of Embalmers and Funeral Directors Rules and Regulations, Chapters 333, 436, 193, 194, which shall be provided to all Licensees within one (1) year from the date this Order becomes final; and,
5. Notify the Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue N.W., Washington, D.C. 20580, at least thirty (30) days prior to: a) filing with the Missouri Secretary of State any Proposed Order of Rulemaking concerning the Board's rules or regulations; or b) proposing any change in Respondent; if such proposed change may affect compliance obligations arising out of this Order.

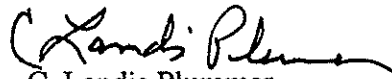
#### IV.

**IT IS FURTHER ORDERED** that Respondent shall file a written report within six (6) months of the date this Order becomes final, and annually on the anniversary date of the original report for each of the five (5) years thereafter, and at such other times as the Commission may require by written notice to Respondent, setting forth in detail the manner and form in which it has complied with this Order.

#### V.

**IT IS FURTHER ORDERED** that this Order shall terminate on June 19, 2018.

By the Commission.

  
C. Landis Plummer  
Acting Secretary

SEAL  
ISSUED: June 19, 2008

# ***Missouri Revised Statutes***

## **Chapter 333**

### **Embalmers and Funeral Directors**

#### **Section 333.251**

August 28, 2007

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#### **Application of law.**

333.251. Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead, but shall only apply to persons engaged in the business of embalming or funeral directing.

(L. 1965 p. 522 § 25)

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Missouri General Assembly



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**Rules of**  
**Department of Insurance,**  
**Financial Institutions and**  
**Professional Registration**  
**Division 2120—State Board of Embalmers and**  
**Funeral Directors**  
**Chapter 2—General Rules**

Title	Page
20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship .....	3
20 CSR 2120-2.020 Biennial License Renewal.....	5
20 CSR 2120-2.022 Retired License .....	5
20 CSR 2120-2.030 Registration of Licensees with Local Registrars of Vital Statistics .....	6
20 CSR 2120-2.040 Licensure by Reciprocity.....	6
20 CSR 2120-2.050 Miscellaneous Rules .....	7
20 CSR 2120-2.060 Funeral Directing.....	7
20 CSR 2120-2.070 Funeral Establishments .....	10
20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area .....	13
20 CSR 2120-2.080 Written Statement of Charges.....	14
20 CSR 2120-2.090 Preparation Rooms/Embalming Room .....	15
20 CSR 2120-2.100 Fees .....	16
20 CSR 2120-2.105 Preneed Fees.....	17
20 CSR 2120-2.110 Public Complaint Handling and Disposition Procedure.....	17
20 CSR 2120-2.115 Procedures for Handling Complaints Against Board Members.....	18
20 CSR 2120-2.120 Public Records .....	19



**Title 20—DEPARTMENT OF  
INSURANCE, FINANCIAL  
INSTITUTIONS AND  
PROFESSIONAL REGISTRATION**

**Division 2120—State Board of  
Embalmers and Funeral Directors  
Chapter 2—General Rules**

**20 CSR 2120-2.010 Embalmer's Registra-  
tion and Apprenticeship**

*PURPOSE: This rule establishes the procedures to be used to secure an embalmer's license.*

- (1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, must complete a practicum as required by the accredited institution of mortuary science education.
- (2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.
- (3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications must be accompanied by the applicable fee.
- (4) During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.
- (5) The practicum student registration authorizes the registrant to engage in the practice of embalming only at the Missouri licensed funeral establishment(s) designated on the

certificate of registration and only under the direct supervision of a Missouri licensed embalmer. The practicum student may assist in the practice of funeral directing only under the direct supervision of a Missouri licensed funeral director and only at the Missouri licensed funeral establishment(s) designated on the certificate of registration. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within ten (10) days of the change.

- (6) Upon successful completion of the practicum, the practicum student registration shall become null and void. A practicum shall be deemed successfully completed when the practicum student has achieved a passing grade on the practicum from the institution of mortuary science at which the practicum student is enrolled.
- (7) After graduating from an accredited institution of mortuary science education, the applicant then must file, with the board, an official transcript of his/her embalming school grades showing s/he is a graduate of that school. In addition, the applicant shall ensure that his/her national board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.
- (8) Effective June 1, 2004 the Missouri State Board embalmers' examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application and payment for the national board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or designee of the board. Application and administration fees for the Missouri Law section shall be made directly to the board. Scheduling and payment for the Missouri Law section will be made directly to the International Conference of Funeral Service Examining Boards, Inc., or designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another license within twelve (12) months

of the date that the board receives the new application.

- (9) The embalming examination shall cover knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative arts, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof.
- (10) An applicant must submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference.
- (11) Those applicants achieving seventy-five percent (75%) on each of the three (3) sections of the embalming examination will be deemed to have passed the board's embalming examination. Any applicant who scores less than seventy-five percent (75%) on any section of the embalming examination may retake the failed section, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed section, the applicant must score at least seventy-five percent (75%) to pass.
- (12) After the applicant has made a passing grade on the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the embalming examination s/he then may apply for registration as an apprentice embalmer. This application must contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications must be submitted on the forms provided by the board and must be accompanied by the applicable fee. Application forms are available from the board office or the board's website at <http://pr.mo.gov/embalmers.asp>.
- (13) Each apprentice embalmer shall provide to the board, on the application provided by the board, the name(s), location(s) and license number(s) of the Missouri licensed funeral establishment(s) where s/he is serving as an apprentice. If the apprentice embalmer begins work at any other Missouri licensed funeral establishment during the period of



apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the board, within ten (10) business days after the change has been made.

(14) The period of apprenticeship under this rule must be at least twelve (12) consecutive months. The apprentice embalmer must devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer. During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working.

(15) Prior to completion of the period of apprenticeship, the apprentice embalmer must achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam administered by the board. This exam may be taken any time after graduating from an accredited institution of mortuary science, but must be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo and the rules governing the practice of embalming, funeral directing and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo relating to pre-need statutes and Chapter 193 and 194, RSMo relating to the Missouri Department of Health statutes, as well as questions regarding Federal Trade Commission rules and regulations and OSHA requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination must be received by the board at least forty-five (45) days prior to the date of the next regularly scheduled examination.

(16) An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of twenty-five (25) dead human bodies, must be submitted to the board at the time of completion of the apprenticeship period and prior to the oral examination.

(17) After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination. To appear for the oral examination, the embalmer applicant shall:

(A) Submit an application on a form supplied by the board and pay the applicable fees to the board; and

(B) Successfully pass the oral examination administered by the board for licensure.

(18) The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.

(19) After satisfactory completion of these requirements, an embalmer's license shall be issued to an apprentice embalmer upon payment of the applicable fee and subject to the provisions of section 333.121, RSMo.

(20) An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited institution of mortuary science. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed with the board and the applicant shall be required to appear for the oral examination within five (5) years of the new date of application. No previous practicum, apprenticeship, application or Missouri Law section will be considered for a new application. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Service Science section, or designee of the board will be accepted.

(21) A Missouri licensed embalmer may engage in the practice of embalming in the state of Missouri only in Missouri licensed funeral establishments. Each embalmer shall inform the board in writing of each funeral establishment name(s), location(s) and license number(s) where the embalmer is performing embalming.

(22) A Missouri licensed embalmer has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably

related to the qualifications, functions or duties of any profession licensed or regulated under Chapter 333, RSMo, for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence was imposed. This information must be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(23) Any embalmer licensed by the board in the state of Missouri who wishes to become a licensed funeral director shall be required to comply with all requirements necessary for licensure as a funeral director, except, the Missouri licensed embalmer shall be exempt from the requirement of a funeral director apprenticeship.

(24) Should an individual desire to obtain a Missouri embalmer's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination and shall be required to complete a six (6) consecutive month period of apprenticeship during which time s/he shall be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship, application, administration and examination fees to obtain a new embalmer's license under this section. No previous apprenticeship, application or examination will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Science section will be accepted.

(25) All documents filed with the board under this rule shall become a part of its permanent files.

(26) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in each office or place of business where they work, for inspection by any duly authorized agent of the board.

(27) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall





remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 333.041 and 333.081, RSMo Supp. 2003 and 333.091, 333.111, and 333.121, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 26, 1976. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Amended: Filed April 6, 1978, effective July 13, 1978. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Rescinded and readopted: Filed Dec. 3, 1982, effective March 11, 1983. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 13, 1991, effective Jan. 13, 1992. Amended: Filed Oct. 16, 1991, effective Feb. 6, 1992. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Aug. 30, 1995, effective Feb. 25, 1996. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.010, effective Aug. 28, 2006.

\*Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001; 333.081, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981; and 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965, amended 1981.

## 20 CSR 2120-2.020 Biennial License Renewal

**PURPOSE:** This rule outlines the requirements and procedures for the renewal of embalmer's, funeral director's and funeral establishment's licenses.

(1) Each Missouri licensed embalmer or Missouri licensed funeral director shall notify the board within thirty (30) days of each address change of the Missouri licensed funeral establishment at which s/he is practicing and shall notify the board within thirty (30) days of any termination or creation of an employment relationship with a Missouri licensed funeral establishment. Each holder of a Missouri funeral establishment license shall notify the board at least sixty (60) days prior to

any change of address of the Missouri licensed funeral establishment, sale of the Missouri licensed funeral establishment or termination of business of the Missouri licensed funeral establishment.

(2) A nonrenewable license, not valid for active practice in Missouri, will be issued at no charge to a currently licensed embalmer, funeral director, or both, upon presentation of a signed notarized statement from the licensee attesting to the fact that the licensee is disabled and is no longer active in the practice of embalming, funeral directing, or both. If the licensee desires at some future date to return to active practice in Missouri, the board shall issue a valid renewal license upon payment of the current renewal fee and completion of the applicable renewal application form.

(3) The holders of expired Missouri embalmer's and funeral director's licenses which are not renewed will be notified that their licenses have expired. The holder of an expired license shall be issued a new license by the board within two (2) years of the renewal date after the proper reactivation fees have been paid. Any Missouri embalmer's license and Missouri funeral director's license not renewed within two (2) years shall be void.

(4) The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his/her license.

(5) The biennial license renewal date for Missouri licensed embalmers and Missouri licensed funeral directors shall be designated as June 1. The biennial license renewal date for Missouri licensed funeral establishments shall be designated as January 1.

(6) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 333.081, RSMo Supp. 2003 and 333.111.1, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.020. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb.

11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Jan. 13, 1986, effective April 25, 1986. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.020, effective Aug. 28, 2006.

\*Original authority: 333.081, RSMo 1965, amended 1981, 2001 and 333.111, RSMo 1965, amended 1981, 1993, 1995.

## 20 CSR 2120-2.022 Retired License

**PURPOSE:** This rule clarifies the requirements to retire from the practice of funeral directing and/or embalming.

(1) Any person licensed to practice as a funeral director and/or embalmer in Missouri who is over sixty-five (65) years of age and who retires from such practice, shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which s/he retired from such practice, that s/he will not practice such profession and such other facts as tend to verify the retirement as the board may deem necessary; but if s/he thereafter wishes to reengage in the practice, s/he shall renew his/her registration with the board as provided in section 333.081.1, RSMo.

(2) For purposes of this section, a retired Missouri licensed funeral director and/or Missouri licensed embalmer is one who is neither engaged in the active practice of funeral directing/embalming nor holds him/herself out as an actively practicing funeral director/embalmer and has executed and filed with the board a retirement affidavit. A retired Missouri licensed funeral director/embalmer may keep his/her wall-hanging certificate after execution of a retirement affidavit but shall surrender, upon retirement, all other indicia of licensure.

(3) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.



**AUTHORITY:** sections 333.081, RSMo Supp. 2003 and 333.111, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.022. Original rule filed July 15, 1996, effective Jan. 30, 1997. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.022, effective Aug. 28, 2006.

\*Original authority: 333.081, RSMo 1965, amended 1981, 2001 and 333.111.1, RSMo 1965, amended 1981, 1993, 1995.

#### 20 CSR 2120-2.030 Registration of Licensees with Local Registrars of Vital Statistics

**PURPOSE:** This rule outlines the procedure for registering renewal licenses with local registrars.

(1) Pursuant to section 333.091, RSMo every holder of a Missouri embalmer's or funeral director's license, upon receiving his/her initial or renewal license(s), shall register his/her signature, name, address and license number with the local registrar of vital statistics for the registration district in which the licensee practices.

(2) Whenever a licensee changes his/her place of employment from the jurisdiction of one (1) registration district to another registration district, within ten (10) days after that change, s/he shall register with the local registrar to whose jurisdiction s/he has moved.

(3) The boundaries of the registration district shall be determined as required by the rules promulgated by the Department of Health.

(4) Each licensed embalmer who embalms a dead human body shall state on the death certificate that s/he embalmed the dead human body described on the death certificate. Each statement must be signed by the licensed embalmer. If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.

(5) Each signature of a licensed embalmer on a death certificate must correspond with the same licensee's signature as registered with the local registrar of vital statistics.

(6) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless other-

wise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 194.119, RSMo Supp. 2003 and 333.091 and 333.111, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.030. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Amended: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Jan. 13, 1986, effective April 24, 1986. Amended: Filed Aug. 4, 1986, effective Oct. 11, 1986. Amended: Filed Jan. 15, 1988, effective April 11, 1988. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.030, effective Aug. 28, 2006.

\*Original authority: 194.119, RSMo 2003; 333.091, RSMo 1965, amended 1981; and 333.111, RSMo 1965, amended 1981, 1993, 1995.

#### 20 CSR 2120-2.040 Licensure by Reciprocity

**PURPOSE:** This rule outlines procedures for obtaining an embalmer or funeral director license by reciprocity.

(1) Applications for a Missouri embalmer's or funeral director's license by reciprocity shall be made on the forms provided by the board and must be accompanied by the applicable fee. Application forms are available from the board office or the board's website at <http://pr.mo.gov/embalmers.asp>.

(2) Any person holding a valid unrevoked and unexpired license to practice embalming or funeral directing in another state or territory, is eligible to obtain licensure by reciprocity by submitting to the board the following:

(A) Evidence satisfactory to the board that the reciprocity applicant holds a valid, unrevoked, and unexpired license as an embalmer or funeral director in another state having substantially similar requirements to the requirements for licensure as either an embalmer or funeral director in this state including a copy of his/her original license issued by the other state;

(B) Proof of his/her educational and professional qualifications, which must be substantially equivalent to the requirements

existing in Missouri at the time s/he was originally licensed;

(C) A certified statement for the examining board of the state or territory in which the applicant holds his/her license showing the grade rating upon which his/her license was granted, a statement whether the reciprocity applicant has ever been subject to discipline or if there are any complaints pending against the reciprocity applicant and a recommendation for licensure in Missouri;

(D) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Funeral Service Arts Examination and the National Funeral Service Science Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for an embalmer license or an embalmer and funeral director license; or

(E) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Funeral Service Arts Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for only a funeral director license; and

(F) Evidence that the reciprocity applicant has successfully completed the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board within twelve (12) months prior to applying for a license for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license;

(G) A completed application for licensure for reciprocity provided by the board; and

(H) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

(3) If the reciprocity applicant holds a license as an embalmer or funeral director in another state or territory with requirements less than those of this state, they may seek licensure in this state by submitting to the board the following:

(A) A copy of his/her original license by the other state board;

(B) Proof of his/her educational and professional qualifications;

(C) Evidence that the reciprocity applicant has successfully completed the reciprocity examination with a score of seventy-five per-



cent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board within twelve (12) months prior to applying for a license for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license;

(D) Evidence that the reciprocity applicant has successfully completed the reciprocity examination with a score of seventy-five percent (75%) or better either within twelve (12) months prior to application or within twenty-four (24) months after the board's receipt of the reciprocity application;

(E) A completed application for licensure for reciprocity provided by the board; and

(F) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

(4) Licensure by reciprocity may be given only for like license(s). An embalmer licensed in another state may obtain an embalmer license by reciprocity, but not a funeral director license unless that person is licensed as a funeral director in another state. A funeral director licensed in another state may obtain a funeral director license by reciprocity, but not an embalmer license unless that person is licensed as an embalmer in another state.

(5) Applications must be completed and received by the board at least forty-five (45) days prior to the date of the next regularly scheduled examination and must be accompanied by the applicable administration fee. Scheduling and payment for the examination will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or designee of the board. Applications are deemed complete upon submission of any and all requisite forms required by the board, payment of requisite fees, and submission of all materials required by this rule or supplemental materials requested by the board. Application forms can be obtained from the board office or the board's website at <http://pr.mo.gov/embalmers.asp>.

(6) The board shall determine the sufficiency of the materials provided in the application for reciprocity and shall have the authority to make the final determination as to the standards and qualifications of the various states from which the applicants may be accepted

by reciprocity and may reject any applicant on any lawfully permitted grounds.

(7) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in the office(s) or place(s) of business, for inspection by any duly authorized agent of the board.

(8) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 333.051, 333.091 and 333.111, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.040. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.040, effective Aug. 28, 2006.

\*Original authority: 333.051, RSMo 1965, amended 1981, 1998; 333.091, RSMo 1965, amended 1981; and 333.111, RSMo 1965, amended 1981, 1993, 1995.

#### 20 CSR 2120-2.050 Miscellaneous Rules

**PURPOSE:** This rule incorporates miscellaneous rules pertaining to embalmer's and funeral director's licenses.

(1) All licensees may represent themselves before the board without an attorney. If the licensee desires to be represented by an attorney, the attorney must be licensed to practice law in Missouri or meet the requirements of the Supreme Court with respect to nonresident attorneys.

(2) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** section 333.111, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.050. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.050, effective Aug. 28, 2006.

\*Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995.

#### 20 CSR 2120-2.060 Funeral Directing

**PURPOSE:** This rule outlines the provisions for the practice of funeral directing.

(1) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo shall provide the following to the board:

(A) Proof of being at least eighteen (18) years of age;

(B) Proof of possession of a high school diploma or equivalent;

(C) Evidence of being a person of good moral character;

(D) Proof of satisfactory completion of each section of the funeral director's examination;

(E) Affidavit of completion of a twelve (12) consecutive month apprenticeship; or official transcript and documentation indicating s/he is a graduate of an institute of mortuary science accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department for Funeral Service Education; or has successfully completed a course in funeral directing offered by a college accredited by a recognized national, regional or state accrediting body and approved by the State Board of Embalmers and Funeral Directors; or proof of being a Missouri licensed embalmer;



(F) Completed application form provided by the board;

(G) Proof of successful completion of the National Funeral Service Arts, if applicable;

(H) Payment of all applicable fees;

(I) Satisfactory criminal history background check as provided to the board by the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol; and

(J) Any other information the board may require.

(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application and the administration fees for the Missouri Law examination and Missouri Funeral Service Arts examination directly to the board. The scheduling and payment of the examinations will be made through the International Conference of Funeral Service Examining Boards, Inc., or designee of the board. If the applicant has successfully completed the National Funeral Service Arts examination, no Missouri Funeral Service Arts examination is required, and no Missouri Funeral Service Arts examination fee may be applicable. Application forms can be obtained from the board office or the board's website at <http://pr.mo.gov/embalmers.asp>.

(3) Effective June 1, 2004, the funeral director examination administered by the board shall consist of the Missouri Law section and the Missouri Funeral Service Arts section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board. In lieu of the Missouri Funeral Service Arts examination, successful completion of the National Funeral Service Arts examination results will be accepted.

(4) To serve as an apprentice funeral director, the applicant shall file with the board a completed funeral director application on the form prescribed by the board and also shall complete an application to be registered as an apprentice funeral director on the form prescribed by the board and pay all applicable fees. Application forms and a list of fees can be obtained from the board office or on the board's website at <http://pr.mo.gov/embalmers.asp>.

(5) Upon registration and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of a Missouri licensed funeral director. The funeral director apprentice registration, or a copy thereof, shall be displayed in a conspicuous location accessible to the public at each establishment where the apprentice is working.

(6) The funeral director apprentice registration authorizes the registrant to engage in the practice of funeral directing only during the period of apprenticeship. Once the apprenticeship is successfully completed as defined in this rule, the funeral director apprentice registration shall become null and void. Any Missouri licensed funeral director who allows a former apprentice who has completed his/her apprenticeship to engage in the practice of funeral directing before that apprentice is fully licensed shall be subject to discipline for misconduct under section 333.121.2, RSMo.

(7) Each registered funeral director apprentice shall provide to the board, on the application prescribed by the board, the name(s), location(s) and license number(s) of each funeral establishment(s) where they are serving as an apprentice. The funeral director apprenticeship may be served at a funeral establishment licensed by a state, other than Missouri, upon submission of proof to the board that the out-of-state funeral home is licensed for the care and preparation for burial and transportation of human dead in this state or another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirement for admission to practice funeral directing in this state. If the funeral director apprentice changes funeral establishments during the course of the apprenticeship, the apprentice shall notify the board, on the form prescribed by the board, of the name(s), location(s) and funeral establishment(s) license number of the new apprenticeship location within ten (10) business days after the change has been made.

(8) Successful completion of a funeral director apprenticeship shall consist of the following:

(A) Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment; and

(B) Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that s/he has arranged for and conducted a minimum of ten (10) funeral ceremonies under the supervision of a Missouri licensed funeral director.

(9) An apprentice will be eligible to take the funeral director examination after completion of the twelve (12) consecutive month period of apprenticeship.

(10) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five percent (75%) or better is achieved on each section. If the applicant fails a section of the examination, the applicant shall be permitted to retake that section upon application and payment of the administration fee to the board. Scheduling and payment of the examination fee will be made through the International Funeral Service Examining Boards, Inc., or designee of the board.

(11) All notifications for the funeral director's examination must be in writing and received by the board at least forty-five (45) days prior to the date of the next regularly scheduled examination and must be accompanied by all applicable fees.

(12) A college accredited by a recognized national, state, or regional accrediting body may seek the approval of the State Board of Embalmers and Funeral Directors for a course of study in funeral directing by submitting a description of the program, the college catalog listing the course of study and evidence that the program has been approved to be offered in that institution by the administration of the college and the Missouri Coordinating Board for Higher Education.

(13) An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another license within twelve (12) months of the date that the board receives the new application.

(14) It shall be considered misconduct in the practice of funeral directing for a Missouri licensed funeral director to permit any unlicensed person to engage in, or take charge of, the activities for which a license is required by law.



(15) A Missouri licensed funeral director shall be present and personally must supervise or conduct each funeral ceremony conducted by or from a Missouri licensed funeral establishment. A violation of this section will be considered misconduct in the practice of funeral directing.

(16) A Missouri licensed funeral director shall be present and personally must supervise any disinterment, interment, entombment, or cremation as defined in 4 CSR 120-1.040. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing. Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been completed, the Missouri licensed funeral director is not required to stay with the body. Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities s/he has under his/her contract with the person(s) having the right to control the incidents of burial.

(17) An unlicensed person may transport dead human bodies from the place of death to another location or may transport dead human bodies out of this state if these services are performed under the direction of a Missouri licensed funeral establishment.

(18) No person other than a Missouri licensed funeral director shall be allowed to make the following at-need arrangements with the person having the right to control the incidents of disposition:

(A) Removal of a dead human body, arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;

(B) Embalming, cremation, care, preparation, shipment or transportation of a dead human body; and

(C) Sale or rental to the public of funeral merchandise, services or paraphernalia.

(19) The taking of preliminary information by an unlicensed person will not be construed as the making of at-need funeral arrangements under this rule.

(20) Whenever an unlicensed person makes other than at-need funeral arrangements on behalf of a Missouri licensed funeral director or Missouri licensed funeral establishment, the unlicensed person shall be under the supervision and control of a Missouri licensed funeral director at all times.

(21) No temporary Missouri funeral director license authorized under section 333.041.7, RSMo will be issued until the board has been advised as to the location of the Missouri licensed funeral establishment at which the temporary funeral director's license will be used. The holder of the temporary license shall be authorized to only work at the Missouri licensed funeral establishment(s) where the deceased and/or disabled Missouri licensed funeral director was authorized to work. Violation of this rule will be deemed unauthorized practice of funeral directing.

(22) The business and practice of funeral directing may be conducted only from a fixed place or establishment which has been licensed by the board.

(23) Limited License.

(A) A person holding a limited license shall be allowed to work only in a funeral establishment licensed only as a Function B funeral establishment (cremation only). It shall be lawful for a limited licensee to engage in any act of funeral directing at a Function B funeral establishment including transportation of dead human bodies to and from the funeral establishment.

(B) Every person desiring a limited license shall provide the following to the board:

1. Proof of being at least eighteen (18) years of age;

2. Proof of possession of a high school diploma or its equivalent;

3. Evidence of being a person of good moral character;

4. Proof of successful completion by achieving a score of seventy-five percent (75%) or better on the Missouri Law examination;

5. Completed application form as provided by the board;

6. Payment of applicable fees;

7. Payment of any fee charged by the Missouri Highway Patrol for a criminal history background check; and

8. Any other information the board may require.

(C) Every limited licensee shall provide the board with the name, location and license number of each funeral establishment where she/he is employed.

(D) A limited licensee shall be obligated to comply with all Missouri laws governing funeral directors subject to the limitations imposed by this rule and section 333.042.2, RSMo.

(E) If a limited licensee desires to obtain a full funeral director's license, the licensee shall be required to complete an apprenticeship consisting of at least twelve (12) consecutive months as required by section 333.042.2, RSMo, and accompanying regulations OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations. The limited licensee shall not be required to retake the Missouri Law examination.

(24) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in each office(s) or place(s) of business where they work, for inspection by any duly authorized agent of the board.

(25) Should an individual desire to obtain a Missouri funeral director's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make new application and pay all applicable fees to the board. No previous apprentice, application or examination will be considered for the new application. However, the board shall accept the successful completion of the National Funeral Service Arts examination for new application.

(26) A Missouri licensed funeral director may engage in the practice of funeral directing in the state of Missouri only in Missouri licensed funeral establishments. Each Missouri licensed funeral director shall inform the board in writing, in a timely manner, of each Missouri licensed funeral establishment name(s), location(s) and license number(s) where the Missouri licensed funeral director is engaged in funeral directing.

(27) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essen-



tial element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence was imposed. This information must be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(28) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 333.041 and 333.042, RSMo Supp. 2004 and 333.091, 333.111 and 333.121, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.060. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 2, 1983, effective April 12, 1984. Amended: Filed July 29, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Rescinded and readopted: Filed Sept. 8, 1998, effective Jan. 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Amended: Filed Sept. 15, 2004, effective April 30, 2005. Moved to 20 CSR 2120-2.060, effective Aug. 28, 2006.

\*Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001; 333.042, RSMo 1993, amended 1998, 2001; 333.091, RSMo 1965, amended 1981; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.121, RSMo 1965, amended 1981.

## 20 CSR 2120-2.070 Funeral Establishments

**PURPOSE:** This rule clarifies establishment license classifications, establishment names

and the documents to be maintained by licensed funeral homes.

(1) Application for a Missouri licensed funeral establishment license shall be made on the forms provided by the board and must be accompanied by the appropriate fee. Applications are available from the board's office or the board's website at <http://pr.mo.gov/embalmers.asp>. Each application must indicate which license classification is being sought.

(2) There shall be the following license classifications:

(A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment.

(B) Function B establishments shall have authority to cremate dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment must have a cremation chamber.

(C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise.

(D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and must be operated under the supervision and ownership of a Function C establishment.

(3) If a Missouri licensed funeral establishment wishes to change or add to its classification, it shall file a new application for a Missouri licensed funeral establishment indicating its new classification. If a Missouri licensed funeral establishment desires to eliminate one (1) of its functions, other than a Function C, it must notify the board in writing of its intention to surrender the function, but is not required to file a new application for a new Missouri licensed funeral establishment.

(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address.

(5) A Missouri licensed funeral establishment shall be used only for the function for which it is licensed.

(6) Each application for a funeral establishment shall be made in the name of the person or business entity authorized to conduct business in Missouri. No license shall be issued to an establishment that has no legal recognition.

(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 4 CSR 120-1.040. When the Missouri licensed funeral director-in-charge changes for a period of more than thirty (30) days, the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within thirty (30) days of the date when the change first occurs. Failure to notify the board shall be considered a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

(8) Within thirty (30) days after an application for a Missouri licensed funeral establishment has been received in the board's office, the board shall cause the establishment to be inspected. The board shall act on the application and, within thirty (30) days after the application was received in the board's office, the applicant will be advised whether the license is granted or denied. If an applicant determines the establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension must be received by the board prior to the expiration of the application or extension period.

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location or name of the Missouri licensed establishment is changed, a new license must be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room or other facility in a building or portion





physically separated from and located at a place designated by an address differing from the office, chapel or other facilities of the applicant, the chapel, preparation room or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application within thirty (30) days after the change of ownership. This form shall be filled out completely with correct, current information.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license must be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment must provide and allow access to any member or duly authorized agent of the board for the purpose of inspection as provided by sections 333.061 and 333.101, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued

by this board, that person shall be in violation of this rule.

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(12) Only one (1) license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule. If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule.

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.

(A) All signs, stationery and any advertising in newspapers, publications or otherwise, must include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.121, RSMo.

(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be kept free and clean of litter, dirt, debris and clutter or other objects or conditions which present a potential or actual hazard to the health, safety or welfare of the public.

(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety or welfare of the public.

(16) Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of

dead human remains and shall be equipped and maintained as described in 4 CSR 120-2.090.

(17) No person shall be permitted in a preparation room during the course of embalming a dead human body except the employees of the Missouri licensed funeral establishment in that the human body is being embalmed, members of the family of the deceased, and persons authorized by the members of the family of the deceased, or any person otherwise authorized by law.

(18) Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 4 CSR 120-2.071.

(19) Each Function C establishment shall contain a separate area for the care and custody of dead human remains and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records.

(20) Each Function C or Function D establishment shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment must be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands and music-producing equipment.

(21) According to section 333.121.2(17), RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be



given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

(A) The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(B) Any person or friend who assumes responsibility for the disposition of the deceased's remains if no next of kin assumes such responsibility may authorize to embalm the deceased;

(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;

(D) If the body is required to be buried at public expense, the body shall be disposed of according to the terms of section 194.150, RSMo;

(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections (21)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and

(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (21)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

(22) Each Missouri licensed funeral establishment shall maintain documentation of the following information regarding authorization to embalm a body which is embalmed by or on behalf of the Missouri licensed funeral establishment:

(A) When authorization to embalm is given in writing—

1. The name and signature of the person who is authorizing embalming;

2. The relationship of that person to the deceased;

3. The time and date authorization to embalm was given; and

4. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment; and

(B) Authorization to embalm must be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given, the Missouri licensed funeral establishment shall document—

1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;

2. The relationship of that person to the deceased;

3. The name of the person who is verbally communicating authorization to embalm and that person's relationship to the person who is actually authorizing embalming;

4. The time and date authorization to embalm was given; and

5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

(23) Each Function C funeral establishment shall maintain on the premises the following documents:

(A) General price list;

(B) Preneed contracts which have been cancelled or fulfilled;

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.

(24) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room an embalming log.

(25) Each Function B funeral establishment licensed for cremation shall maintain on the premises in the cremation area a cremation log.

(26) All documents required by this rule to be maintained, must be maintained on the premises for a minimum of the current calendar year and the previous calendar year. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board and so the board, or its assignee, may easily and timely obtain

hard copies or electronic copies in a format easily readable by the board, or its assignee.

(27) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required.

(28) Whenever a dead human body is donated to a medical or educational institution for medical and/or scientific study and arrangements for return of the body to the legal next of kin have not been made, then delivery of the body to the medical or educational institution shall constitute final disposition. If, however, arrangements for return of the body to the legal next of kin have been made, then final disposition shall be the burial, interment, cremation, or removal of the body out of this state, after the medical or educational institution has returned the body.

(29) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.061, RSMo Supp. 2003 and 333.091, 333.111, 333.121 and 333.145, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.070. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 6, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Rescinded and readopted: Filed May 28, 1987, effective Sept. 11, 1987. Amended: Filed June 24, 1988, effective Sept. 29, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Sept. 5, 1990, effective March 14,*





1991. Amended: Filed March 4, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 15, 1991, effective Jan. 13, 1992. Amended: Filed Dec. 14, 1992, effective June 7, 1993. Amended: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.070, effective Aug. 28, 2006.

\*Original authority: 333.061, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965, amended 1981; and 333.145, RSMo 1981.

## 20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

**PURPOSE:** This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.

### (1) Definitions.

(A) Cremated remains—the bone fragments which remain after the cremation process is completed.

(B) Cremation—the technical heating process which reduces remains to bone fragments through heat and evaporation; the final disposition of dead human remains.

(C) Cremation box—a container into which cremated remains are placed for transportation or short-term storage.

(D) Cremation chamber—the total mechanical unit for the actual cremation process.

(E) Cremation container—the case in which the human remains are delivered to the crematory area for cremation.

(F) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.

(G) Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.

(H) Short-term storage—storage for a period of thirty (30) days or fewer.

(I) Urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.

(2) No body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.

(3) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which shall include:

(A) A written authorization for cremation

executed prior to cremation by the person entitled to custody or control of the body which shows the time and date when authorization for cremation was given; and

(B) Information regarding the cremation which shall include:

1. The full name of the deceased;

2. The last place of residence of the deceased;

3. The place of death of the deceased;

4. The place of birth of the deceased;

5. The date and place of the funeral;

6. The name of the Missouri licensed funeral director with whom the arrangements were made;

7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;

8. The date and time when cremation was begun;

9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed; and

10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number.

(4) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:

(A) The name of the deceased to be cremated;

(B) The name of the Missouri licensed establishment where the body is cremated;

(C) The date and time the body arrived at the crematory;

(D) The date and time the cremation took place;

(E) The name and signature of the Missouri licensed funeral director supervising the cremation;

(F) The supervising Missouri licensed funeral director's license number; and

(G) The name of the Missouri licensed funeral establishment or other that was in charge of making the arrangements if from a different location.

(5) All records required to be maintained by this rule shall be maintained on the premises of the Missouri licensed funeral establishment for a minimum of the current calendar year and the preceding calendar year. All documents required to be maintained by this rule may be maintained electronically, but all

documents shall be stored in such a manner to allow access by the board, or its assignee, and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

(6) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(7) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (6) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twenty-four (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.

(8) If a Missouri licensed embalmer proceeds to embalm a body under the provisions in accordance with the provisions of 4 CSR 120-2.070(21), a Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

(9) The cremation chamber shall be constructed specially to withstand high temperatures and protect the surrounding structure.

(10) The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety



of the operator and any other person(s) present.

(11) No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased and persons authorized by the members of the family of the deceased or any other person authorized by law.

(12) When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees.

(13) Each body shall be delivered to the crematory in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal. If a metal container or casket is used the purchaser must be informed of the disposition of the metal container or casket after cremation. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease.

(14) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

(15) No body shall be cremated with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

(16) No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo.

(17) Each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated and each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the

deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made.

(18) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

(19) Following the completion of the cremation process, all residual of the cremation process including the cremated remains and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

(20) If the cremated remains do not fill the interior of the cremation box adequately, the extra space may be filled with shredded paper or clean absorbent cotton.

(21) If the cremated remains will not fit within the receptacle designated in the arrangements, the remainder shall be placed in a separate receptacle or, if written permission is obtained from the person entitled to custody or control of the body, disposed of in some other manner.

(22) The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of cremated remains or the entry of foreign objects.

(23) If the cremated remains are to be shipped, the cremation box shall be packed securely in a corrugated cardboard box which is securely closed with tape acceptable to the shipper.

(24) Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

(25) Each urn into which cremated remains are placed shall be made of a durable material which shall enclose the cremated remains entirely.

(26) Each Missouri licensed funeral establishment which comes into possession of cremated remains, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the cremated remains until they are delivered, placed or shipped pursuant to the instructions of the person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri

licensed funeral establishment has obtained written permission for other disposition contingent upon the Missouri licensed funeral establishment attempting to dispose of the cremated remains according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation.

(27) Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which contains a crematory area from establishing more restrictive standards for its own operation.

(28) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.061, RSMo Supp. 2003 and 333.111, 333.121 and 333.145, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.071. Original rule filed May 29, 1987, effective Sept. 11, 1987. Amended: Filed Jan. 15, 1988, effective April 11, 1988. Amended: Filed April 16, 1990, effective Sept. 28, 1990. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.071, effective Aug. 28, 2006.*

*\*Original authority: 333.061, RSMo 1965, amended 1981, 2001; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965 amended 1981; and 333.145, RSMo 1981.*

## 20 CSR 2120-2.080 Written Statement of Charges

*PURPOSE: This rule establishes a minimum disclosure requirement to provide better safeguards to Missouri citizens purchasing funeral services and merchandise and in particular, purchases of caskets and outer burial containers by requiring specific identifying information to be included on the written statement of charges.*

(1) Every Missouri licensed funeral director responsible for providing funeral services or arranging for the delivery of any funeral mer-



chandise, shall give or cause to be given to the person(s) making such arrangements a written statement of charges for the funeral merchandise and funeral services selected.

(2) At the time of need, a written statement of charges shall be completed and given to the person making the at-need arrangements. The written statement of charges shall be completed prior to the rendering of the funeral services or providing merchandise. At a minimum, the written statement of charges shall contain the following:

(A) The name and signature of the Missouri licensed funeral director responsible for making the arrangements or providing the funeral merchandise;

(B) The name and address of the Missouri licensed funeral establishment in charge of providing the merchandise or funeral services;

(C) The name, address and signature of the person making the at-need arrangements;

(D) The date of the signatures;

(E) The name of the deceased;

(F) The date of death;

(G) The price of the service(s) selected and the price of the supplemental (additional) items;

(H) The price of the merchandise selected including a detailed description of the casket and outer burial container;

(I) The amount and description of all cash advance items; and

(J) The method of payment.

(3) A preneed contract shall not be substituted for the written statement of charges required by this rule.

(4) Violations of this rule will be deemed misconduct in the practice of funeral directing.

(5) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 333.111 and 333.145, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.080. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Nov. 10, 1976, effective March 11, 1977. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Amended: Filed Nov. 8, 1978, effective Feb. 11, 1978. Rescinded: Filed Jan.

13, 1982, effective April 11, 1982. Readopted: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed May 3, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2120-2.080, effective Aug. 28, 2006.

\*Original authority: 331.111, RSMo 1965 amended 1981, 1993, 1995 and 333.145, RSMo 1981.

## 20 CSR 2120-2.090 Preparation Rooms/ Embalming Room

**PURPOSE:** This rule outlines the laws and rules governing the standards required of funeral establishment preparation rooms.

(1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.

(2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.

(3) Floors, Walls and Ceilings. All preparation room floor surfaces must be smooth, nonabsorbent materials and so constructed as to be kept clean easily. Floor drains must be provided where the floor is to be subjected to cleaning by flooding. All walls and ceilings must be easily cleanable and light colored, and must be kept and maintained in good repair. All walls shall have washable surfaces.

(4) Each Missouri licensed establishment shall comply with Missouri Department of Health and Senior Services rules and regulations, Missouri Department of Natural Resources rules and regulations, and all other applicable county, city, municipal and state rules and regulations relating to plumbing, sewage and liquid waste, solid waste disposal and disposal of body parts.

(5) Plumbing.

(A) All plumbing must be sized, installed and maintained so as to carry adequate quantities of water throughout the Missouri licensed funeral establishment, prevent contamination of the water supply, properly convey sewage and liquid waste from the preparation room to the sewage disposal system and prevent creation of an unsanitary condition or nuisance.

(B) All plumbing must be sized, installed and maintained in accordance with local plumbing laws and ordinances. Where local codes are not in force, the Missouri licensed funeral director shall contact the International

Code Council (ICC), Chicago District Office, or designee of the board, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795 or current address, for additional requirements.

(6) Sewage and Liquid Waste Disposal.

(A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, must be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the Department of Health and Senior Services.

(B) The following aspirators are approved for preparation rooms:

1. Electric aspirators;

2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker approved by the American Society of Sanitary Engineering or by the *Uniform Plumbing Code* and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table; and

3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the *Uniform Plumbing Code*, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the *Uniform Plumbing Code*.

(7) Solid Waste Disposal.

(A) Refuse, bandages, cotton and other solid waste materials must be kept in leakproof, nonabsorbent containers which must be covered with tight-fitting lids prior to disposal.

(B) All waste materials, refuse, and used bandage and cotton must be destroyed by reducing to ashes through incineration or must be sterilized and buried. Sterilization may be accomplished by soaking for thirty (30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.

(8) Disposal of Body Parts. Human body parts not buried within the casket must be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

(9) A mechanical exhaust system is required. Care must be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.



20 CSR 2120-2—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION

Division 2120—State Board of Embalmers and Funeral Directors

(10) All preparation rooms and all articles stored in them must be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies must be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;

(B) Facilities must exist for the proper disinfection of embalming instruments and the embalming table;

(C) Facilities for the proper storage of embalming instruments must be maintained. At a minimum, a chest or cabinet must be used for the storage of embalming instruments;

(D) All types of blocks used in positioning a dead human body on an embalming table must be made of nonabsorbent material. All wooden blocks must be sealed and painted with enamel; and

(E) When not in use, embalming tables must be cleaned, disinfected and covered with a sheet.

(11) Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(B) The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided, however, that coffee service utilizing single-service cups and spoons and a coffeemaker of easily cleanable construction shall be deemed acceptable where this service is the only food service offered.

(C) A Missouri licensed funeral home providing coffee service utilizing single-service items and coffeemakers of easily cleanable construction must provide a water supply faucet at a suitable sink of easily cleanable construction for the filling and cleaning of this equipment in an area separate from the preparation room and restrooms.

(12) A separate wash sink (separate from slop drain sink) must be present or in close proximity to the preparation room for a personal hand wash facility for Missouri licensed embalmers and the disinfecting of embalming equipment. If the wash sink is not present in

the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10') from the door of the preparation room.

(13) Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.

(14) Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.

(15) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 192.020 and 333.111.1, RSMo 2000 and 333.061, RSMo Supp. 2003.\* This rule originally filed as 4 CSR 120-2.090. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 13, 1984, effective Jan. 13, 1985. Amended: Filed June 2, 1986, effective Sept. 1, 1986. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed May 26, 1993, effective Nov. 8, 1993. Amended: Filed May 16, 1995, effective Dec. 30, 1995. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.090, effective Aug. 28, 2006.

\*Original authority: 192.020, RSMo 1939, amended 1945, 1951; 333.061, RSMo 1965, amended 1981, 2001; and 333.111, RSMo 1965, amended 1981, 1993.

20 CSR 2120-2.100 Fees

**PURPOSE:** This rule establishes and fixes the various fees and charges authorized by Chapter 333, RSMo.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

- (A) Embalmer Practicum Student Registration Fee \$ 25.00
- (B) Embalmer State Board

Examination Administration Fee	\$ 25.00
(C) Embalmer Application Fee	\$200.00
(D) Embalmer Oral Examination Fee	\$125.00
(E) Embalmer Reciprocity Application Fee	\$300.00
(F) Embalmer Biennial Renewal Fee	\$200.00
(G) Missouri Law Examination Administration Fee	\$ 25.00
(H) Funeral Director Application Fee	\$200.00
(I) Funeral Director Limited License Application Fee	\$200.00
(J) Funeral Director Missouri Funeral Service Arts Section Examination Administration Fee	\$ 25.00
(K) Funeral Director Reciprocity Application Fee	\$300.00
(L) Funeral Director Biennial Renewal Fee	\$200.00
(M) Reactivation Fee (up to one (1) year after lapse)	\$100.00
(N) Reactivation Fee (up to two (2) years after lapse)	\$200.00
(O) Establishment Application Fee	\$300.00
(P) Amended Establishment Application Fee	\$ 25.00
(Q) Establishment Biennial Renewal Fee	\$250.00
(R) Reciprocity Certification Fee	\$ 10.00
(S) Reciprocity Examination Administration Fee	\$ 25.00
(T) Duplicate Wallhanging Fee	\$ 10.00
(U) Collection Fee for Bad Checks	\$ 25.00
(V) Law Book Requests	\$ 5.00*
(W) Examination Review Fee	\$ 25.00
(X) Background Check Fee (amount determined by the Missouri State Highway Patrol)	

\*This fee will not apply to the initial copy of the law book which is automatically mailed to all applicants for licensure and to educational institutions of mortuary science. Furthermore, this fee will not be charged to licensees or any other individual, for additions or corrections to the law book after the initial copy is mailed.

(2) All fees are nonrefundable.

(3) The provisions of this rule hereby are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this



rule shall remain in full force, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** section 333.III.1, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.100. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. Emergency amendment filed April 7, 1982, effective April 17, 1982, expired Aug. 14, 1982. Amended: Filed April 13, 1982, effective July 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Aug. 9, 1982, effective Nov. 11, 1982. Amended: Filed Jan. 13, 1984, effective April 12, 1984. Amended: Filed Aug. 9, 1984, effective Jan. 13, 1985. Amended: Filed Feb. 7, 1985, effective May 11, 1985. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Amended: Filed Oct. 3, 1986, effective Jan. 12, 1987. Amended: Filed Dec. 2, 1986, effective March 12, 1987. Amended: Filed March 2, 1987, effective May 25, 1987. Amended: Filed March 16, 1988, effective July 28, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Dec. 2, 1988, effective March 11, 1989. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed March 12, 1991, effective Aug. 30, 1991. Amended: Filed Oct. 16, 1991, effective May 14, 1992. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed June 9, 1995, effective Dec. 30, 1995. Rescinded and readopted: Filed April 16, 1996, effective Nov. 30, 1996. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Sept. 8, 1998, effective Jan. 30, 1999. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed Dec. 30, 1999, effective June 30, 2000. Amended: Filed Aug. 18, 2000, effective Feb. 28, 2001. Amended: Filed April 6, 2001, effective Oct. 30, 2001. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.100, effective Aug. 28, 2006.

\*Original authority: 333.III, RSMo 1965, amended 1981, 1993, 1995.

#### 20 CSR 2120-2.105 Preneed Fees

**PURPOSE:** This rule establishes and fixes the fee for registration as a preneed contract seller and as a preneed contract provider.

(1) The following registration fees for preneed funeral contract sellers and providers are established by the State Board of Embalmers and Funeral Directors:

- |                                                              |           |
|--------------------------------------------------------------|-----------|
| (A) Seller Registration Fee                                  | \$125.00; |
| (B) Provider Registration Fee<br>(per funeral establishment) | \$125.00; |
| (C) Processing an Amended<br>Seller Registration Fee         | \$ 25.00; |
| and                                                          |           |
| (D) Processing an Amended<br>Provider Registration Fee       | \$ 25.00. |

(2) All fees are nonrefundable.

(3) The provisions of this rule are declared severable. If either fee fixed by this rule is held invalid by a court of competent jurisdiction, or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

**AUTHORITY:** sections 333.III(2), RSMo Supp. 1993 and 436.071, RSMo 1986.\* This rule originally filed as 4 CSR 120-2.105. Emergency rule filed Aug. 5, 1982, effective Aug. 15, 1982, expired Nov. 15, 1982. Original rule filed Aug. 5, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Moved to 20 CSR 2120-2.105, effective Aug. 28, 2006.

\*Original authority: 333.III(2), RSMo 1965, amended 1981, 1993 and 436.071, RSMo 1982.

#### 20 CSR 2120-2.110 Public Complaint Handling and Disposition Procedure

**PURPOSE:** This rule establishes a procedure for the receipt, handling and disposition of public complaints by the board, pursuant to the mandate of section 4.16(6) of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo.

(1) The State Board of Embalmers and Funeral Directors shall receive and process each complaint made against any licensee, permit holder, registrant of the board or unlicensed individual or entity, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 333, RSMo. Any member of the public or the profession, or any federal, state or local officials may make and file a complaint with the board. Complaints shall be received from sources outside Missouri and processed in the same manner as those originating within Missouri. No mem-

ber of the State Board of Embalmers and Funeral Directors shall file a complaint with this board while s/he holds that office, unless that member excuses him/herself from further board deliberations or activity concerning the matters alleged within that complaint. The executive director or any staff member of the board may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints should be mailed or delivered to the following address: Executive Director, State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423. However, actual receipt of the complaint by the board at its administrative offices in any manner shall be sufficient. Complaint may be made based upon personal knowledge, or upon information and belief, reciting information received from other sources.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. Complaints shall be made on forms provided by the board and available upon request. Oral or telephone communications will not be considered or processed as complaints, but the person making these communications will be provided with a complaint form and requested to complete it and return it to the board in written form. Any member of the administrative staff of the board or any member of the board may make and file a complaint based upon information and belief, in reliance upon oral, telephone or written communications received by the board, unless those communications are believed by that staff member to be false.

(4) Each complaint received under this rule shall be logged in a book and/or database maintained by the board for that purpose. Complaints shall be logged in consecutive order as received. The logbook and/or database shall contain a record of each complainant's name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any person injured or victimized by the alleged acts or practices; a notation whether the complaint resulted in its dismissal by the board or informal charges being filed with the Administrative Hearing Commission; and the ultimate disposition of the complaint. This logbook and/or database shall be a closed record of the board.

(5) Each complaint received under this rule shall be acknowledged in writing. The acknowledgment shall state that the com-



plaint is being referred to the board for consideration at its next regularly scheduled meeting. The complainant shall be informed as to whether the complaint is being investigated, and later, as to whether the complaint has been dismissed by the board, or is being referred to legal counsel for filing with the Administrative Hearing Commission. The complainant shall be notified of the ultimate disposition of the complaint, excluding judicial appeals and shall be provided with copies of the decisions (if any) of the Administrative Hearing Commission and the board at that time. Provided, that the provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on third-party information received by the board.

(6) The chairman of the board, from time-to-time and as s/he deems necessary, may instruct the board inspector/investigator to investigate any complaint before the complaint has been considered at a regularly scheduled board meeting. The inspector/investigator shall provide a report of any actions taken to the board at its next regularly scheduled meeting.

(7) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record and shall not be available for inspection by the general public. However, a copy of the complaint and any attachments shall be provided to any licensee who is the subject of that complaint, or his/her legal counsel, upon written request to the board.

(8) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee of the board with any actionable conduct or violation, whether or not the complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the board, and whether or not any public complaint has been filed with the board.

(9) The board interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the board and for those persons or entities within the legislative and executive branches of government having supervisory or other responsibilities or control over the professional licensing boards. This rule is not deemed to protect, or inure to the benefit of, those licensees or other persons against whom the board has instituted or may institute administrative or judicial proceeding

concerning possible violations of the provisions of Chapter 333, RSMo.

**AUTHORITY:** sections 333.111, RSMo 2000 and 620.010.15(6), RSMo Supp. 2003. \* This rule originally filed as 4 CSR 120-2.110. Original rule filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.110, effective Aug. 28, 2006.

\*Original authority: 333.111, RSMo 1965, amended 1981, 1993 and 620.010, 1973 amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001.

#### 20 CSR 2120-2.115 Procedures for Handling Complaints Against Board Members

**PURPOSE:** This rule establishes a procedure for the receipt, handling and disposition of complaints filed against members of the board.

(1) Complaints against members of the board will be handled in the same manner as complaints against other licensees with minor variations specifically described in this rule.

(2) When a complaint against a board member is received by the staff, the staff shall take steps to make sure that the complaint is on the proper form(s) (that is, the Uniform Complaint Form). Once the complaint is received in the proper form, the complaint will be mailed to all members of the board except the member who is the subject of the complaint. The member who is the subject of the complaint will automatically receive a summary of the complaint and will receive all agendas or other notices pertaining to when and where the complaint will be discussed. If the member who is the subject of the complaint requests additional information in writing, that information will be provided by the staff in consultation with the chairman (or vice-chairman, if the chairman is the subject of the complaint). In no event will the member who is the subject of the complaint be given information by the board or its staff which would reveal the name of the complainant, unless the member would have access if s/he were not a member of the board. If the board member learns the complainant's identity from the complainant, other board members and the staff subsequently may include the complainant's name in communication with the board member.

(3) At the meeting when the complaint is discussed, the board member who is the subject

of the complaint shall not be present during discussion of the complaint unless by vote or consensus the remaining board members request the presence of the board member in question. The board member shall not participate in discussion of the complaint as a member of the board but shall participate in the same manner as any other licensee who is invited to appear before the board to discuss a complaint. The board member may be asked to leave the room at any time during the discussion. The board member shall leave the room prior to any vote which will determine the manner in which the complaint will be handled.

(4) After the remaining board members have completed voting on all action to be taken as a result of the complaint, the board member may return to the room. At that time, the board chairman (or vice-chairman, if the chairman is the subject of the complaint) will inform the board member of the action which the board has decided to take.

(5) If the board decides to have the complaint investigated, a copy of the investigative report will be mailed to all board members except the board member who is the subject of the complaint. The board member who is the subject of the complaint will be sent a copy of any notice or agenda which indicates that the investigative report will be discussed. The meeting at which the investigative report is discussed will follow the same procedures outlined in section (4) for the meeting at which the complaint is discussed.

(6) If the board chooses to take no further action as a result of the complaint or the investigative report, the board member will be informed of this decision. The board member will not subsequently have access to the investigative report or the complaint unless the member would have that access if s/he were not a member of the board.

(7) If the board chooses to refer the case to the attorney general's office, the board member will be informed of that fact. The board member will not be allowed access to the complaint or investigative report by virtue of his/her status as a board member. If the attorney assigned to the case chooses to release these documents to the board member or if the attorney is required for legal reasons to release these documents to the board member, the board member will be permitted access to the documents released by the attorney.

(8) The board member will not be present during any discussion of the case once the



board has voted to refer the case to the attorney general's office. The exception to this rule will be only for prearranged formal meetings to discuss settlement, if the attorneys for both parties agree. The other board members will not discuss the case with the board member who is the subject of the case except at the formal meeting.

(9) The board member has the right to be represented by counsel at all formal or informal proceedings. Admissions made by the board member at or outside a board meeting may be used against the board member at hearing.

(10) The board member shall not have access to that portion of the minutes of any meeting which reflects discussion, motions or votes related to the complaint or case against the board member. These minutes shall be kept separately as special closed minutes and shall not be shared with the board member by the other board members or the staff unless the board member would be entitled to access to the minutes if s/he were not a board member.

(11) The provisions of sections (1)–(10) of this rule shall apply to any complaint against a Missouri licensed funeral establishment at which a member of the board is employed or with which a member of the board is associated.

(12) The provisions of sections (1)–(10) of this rule shall apply to any complaint against any preneed registrant by which a member of the board is employed or with which a member of the board is associated, including, but not limited to, a complaint against a preneed seller who sells for a Missouri licensed funeral establishment with which a member of the board is associated. A board member will be considered to be employed by or associated with a preneed registrant if the board member receives a salary or wages from the preneed registrant or if a board member has an ownership interest in a preneed registrant. However, these procedures shall not apply to a board member who only receives commissions from the preneed registrant. Each member of the board shall keep the board's executive director notified of the preneed registrants by which the board member is employed and with which the board member is associated.

(13) The remaining members of the board may vote to exclude a member from participating in any matter based upon a conflict of interest. The vote must be a majority vote of all of the members present and voting except the member who is the subject of the vote. Participation shall include, but not be limited

to, receipt of materials, presence during discussion and voting.

**AUTHORITY:** section 333.111, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.115. Original rule filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed April 16, 1990, effective Nov. 30, 1990. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.115, effective Aug. 28, 2006.

\*Original authority: 333.111, RSMo 1965, amended 1981, 1993.

#### 20 CSR 2120-2.120 Public Records

**PURPOSE:** This rule establishes standards of compliance with Chapter 610, RSMo, as it relates to public records of the State Board of Embalmers and Funeral Directors.

(1) All public records of the State Board of Embalmers and Funeral Directors shall be open for inspection and copying by the general public at the board's office during normal business hours, holidays excepted, except for those records closed pursuant to section 610.021, RSMo. All public meetings of the State Board of Embalmers and Funeral Directors, not closed pursuant to the provisions of section 610.021, RSMo, will be open to the public.

(2) The State Board of Embalmers and Funeral Directors establishes the executive director of the board as the custodian of its records as required by section 610.023, RSMo. The executive director is responsible for maintaining the board's records and for responding to requests for access to public records and may appoint deputy custodians as necessary for the efficient operation of the board.

(3) When the custodian believes that requested access is not required under Chapter 610, RSMo, the custodian shall inform the requesting party that compliance cannot be made, specifying what sections of Chapter 610, RSMo, require that the record remain closed. Correspondence or documentation of the denial shall be copied to the board's general counsel. The custodian also shall inform the requesting party that s/he may appeal directly to the board for access to the records requested. The appeal and all pertinent information shall be placed on the agenda for the board's next regularly scheduled meeting. If the board reverses the decision of the custodian, the board shall direct the custodian to advise the requesting party and supply access

to the information during regular business hours at the requesting party's convenience.

(4) The custodian shall maintain a file that will contain copies of all written requests for access to records and responses to these requests. The requests shall be maintained on file with the board for a period of one (1) year and will be maintained as a public record of the board open for inspection by any member of the general public during regular business hours.

(5) Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost of inspecting and copying the records. The fee charged by the board shall be as follows:

(A) A fee for copying public records shall not exceed the actual cost of the document search and duplication; and

(B) The board may require payment for these fees prior to making the copies.

**AUTHORITY:** sections 333.111, 610.010–610.035 and 620.010.14, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.120. Original rule filed Nov. 1, 2001, effective April 30, 2002. Moved to 20 CSR 2120-2.120, effective Aug. 28, 2006.

\*Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995; 610.010–610.035, see Missouri Revised Statutes; and 620.010, RSMo 1973, amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001.

